

**REMARKS**

Initially, Applicant's attorney wishes to thank the Examiner for the careful attention given the present application as well as the courteous phone interview extended to the undersigned on September 16, 2004. In accordance this discussion with the Examiner, Applicant respectfully submits the following Amendments and believes the case is in condition for allowance.

The only rejection made by the Examiner in the September 7, 2004 Communication was based on 35 USC §112. The Examiner objected to the use of the language "a first elevated level" and "a second elevated level" without either a temporal limitation or an analytical annotation to distinguish between measurements.

The Applicants have amended Claims 36 and 44 to recite a temporal limitation, wherein the second elevated level is detected after the first elevated level of S100B is detected.

Additionally, the Applicants have added a second claim set (claims 59-67), wherein the method claims recite an analytical annotation. In claims 59-67, the first elevated level has a value of about 0.12 ng/ml to about 0.35 ng/ml.

Claims 36-37, and 41-67 are pending in the present application. No new matter is presented by the present amendments.

**CONCLUSION**

In view of the remarks presented above, it is believed that the claims are in condition for allowance and notice to such effect is respectfully requested. Although Applicant believes no fees, other than the fees for the additional claims are due, the Commissioner is hereby authorized to charge deposit account No. 50-0436 for any fees that may be due in connection with this response. Should the Examiner have any questions regarding these remarks, the Examiner is invited to initiate a telephone conference with the undersigned.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment, or credit any overpayment, to deposit account no. 50-0436.

Respectfully submitted,

PEPPER HAMILTON LLP



Raymond A. Miller  
Registration No. 42,891

Date: November 12, 2004  
Pepper Hamilton LLP  
One Mellon Center  
500 Grant Street, 50<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Tel.: (412) 454-5000  
Facsimile: (412) 281-0717